

SENATE BILL NO. 379

INTRODUCED BY J. COBB

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4 A BILL FOR AN ACT ENTITLED: "AN ACT DISALLOWING MOST INDIVIDUAL INCOME TAX DEDUCTIONS
5 AND MOST INDIVIDUAL INCOME TAX AND CORPORATE LICENSE TAX CREDITS FOR THE TAX YEARS
6 BEGINNING AFTER DECEMBER 31, 2003, AND BEFORE JANUARY 1, 2006; AND AMENDING SECTIONS
7 15-30-121, 15-30-128, 15-30-129, 15-30-162, 15-30-163, 15-30-164, 15-30-168, 15-30-180, 15-30-181,
8 15-30-186, 15-31-123, 15-31-125, 15-31-131, 15-31-132, 15-31-135, 15-31-136, 15-31-150, 15-31-151,
9 15-32-109, 15-32-115, 15-32-402, 15-32-503, 15-32-602, 17-6-316, AND 90-8-202, MCA."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
13 **Section 1.** Section 15-30-121, MCA, is amended to read:

14 **"15-30-121. Deductions allowed in computing net income.** (1) ~~Except as provided in subsection~~
15 (3), in computing net income, there are allowed as deductions:

16 (a) the items referred to in sections 161, including the contributions referred to in 33-15-201(5)(b), and
17 211 of the Internal Revenue Code of 1954 (26 U.S.C. 161 and 211), or as sections 161 and 211 are labeled or
18 amended, subject to the following exceptions, which are not deductible:

- 19 (i) items provided for in 15-30-123;
- 20 (ii) state income tax paid;
- 21 (iii) premium payments for medical care as provided in subsection (1)(g)(i);
- 22 (iv) long-term care insurance premium payments as provided in subsection (1)(g)(ii);

23 (b) federal income tax paid within the tax year;

24 (c) expenses of household and dependent care services as outlined in subsections (1)(c)(i) through
25 (1)(c)(iii) and (2) and subject to the limitations and rules as set out in subsections (1)(c)(iv) through (1)(c)(vi), as
26 follows:

- 27 (i) expenses for household and dependent care services necessary for gainful employment incurred
28 for:
 - 29 (A) a dependent under 15 years of age for whom an exemption can be claimed;
 - 30 (B) a dependent as allowable under 15-30-112(5), except that the limitations for age and gross income

- 1 do not apply, who is unable to provide self-care because of physical or mental illness; and
- 2 (C) a spouse who is unable to provide self-care because of physical or mental illness;
- 3 (ii) employment-related expenses incurred for the following services, but only if the expenses are
- 4 incurred to enable the taxpayer to be gainfully employed:
- 5 (A) household services that are attributable to the care of the qualifying individual; and
- 6 (B) care of an individual who qualifies under subsection (1)(c)(i);
- 7 (iii) expenses incurred in maintaining a household if over half of the cost of maintaining the household
- 8 is furnished by an individual or, if the individual is married during the applicable period, is furnished by the
- 9 individual and the individual's spouse;
- 10 (iv) the amounts deductible in subsections (1)(c)(i) through (1)(c)(iii), subject to the following limitations:
- 11 (A) a deduction is allowed under subsection (1)(c)(i) for employment-related expenses incurred during
- 12 the year only to the extent that the expenses do not exceed \$4,800;
- 13 (B) expenses for services in the household are deductible under subsection (1)(c)(i) for
- 14 employment-related expenses only if they are incurred for services in the taxpayer's household, except that
- 15 employment-related expenses incurred for services outside the taxpayer's household are deductible, but only
- 16 if incurred for the care of a qualifying individual described in subsection (1)(c)(i)(A) and only to the extent that
- 17 the expenses incurred during the year do not exceed:
- 18 (I) \$2,400 in the case of one qualifying individual;
- 19 (II) \$3,600 in the case of two qualifying individuals; and
- 20 (III) \$4,800 in the case of three or more qualifying individuals;
- 21 (v) if the combined adjusted gross income of the taxpayers exceeds \$18,000 for the tax year during
- 22 which the expenses are incurred, the amount of the employment-related expenses incurred, to be reduced by
- 23 one-half of the excess of the combined adjusted gross income over \$18,000;
- 24 (vi) for purposes of this subsection (1)(c):
- 25 (A) married couples shall file a joint return or file separately on the same form;
- 26 (B) if the taxpayer is married during any period of the tax year, employment-related expenses incurred
- 27 are deductible only if:
- 28 (I) both spouses are gainfully employed, in which case the expenses are deductible only to the extent
- 29 that they are a direct result of the employment; or
- 30 (II) the spouse is a qualifying individual described in subsection (1)(c)(i)(C);

- 1 (C) an individual legally separated from the individual's spouse under a decree of divorce or of separate
2 maintenance may not be considered as married;
- 3 (D) the deduction for employment-related expenses must be divided equally between the spouses when
4 filing separately on the same form;
- 5 (E) payment made to a child of the taxpayer who is under 19 years of age at the close of the tax year
6 and payments made to an individual with respect to whom a deduction is allowable under 15-30-112(5) are not
7 deductible as employment-related expenses;
- 8 (d) in the case of an individual, political contributions determined in accordance with the provisions of
9 section 218(a) and (b) of the Internal Revenue Code (now repealed) that were in effect for the tax year ended
10 December 31, 1978;
- 11 (e) that portion of expenses for organic fertilizer and inorganic fertilizer produced as a byproduct allowed
12 as a deduction under 15-32-303 that was not otherwise deducted in computing taxable income;
- 13 (f) contributions to the child abuse and neglect prevention program provided for in 52-7-101, subject
14 to the conditions set forth in 15-30-156;
- 15 (g) the entire amount of premium payments made by the taxpayer, except premiums deducted in
16 determining Montana adjusted gross income, or for which a credit was claimed under 15-30-128, for:
- 17 (i) insurance for medical care, as defined in 26 U.S.C. 213(d), for coverage of the taxpayer, the
18 taxpayer's dependents, and the parents and grandparents of the taxpayer; and
- 19 (ii) long-term care insurance policies or certificates that provide coverage primarily for any qualified
20 long-term care services, as defined in 26 U.S.C. 7702B(c), for:
- 21 (A) the benefit of the taxpayer for tax years beginning after December 31, 1994; or
22 (B) the benefit of the taxpayer, the taxpayer's dependents, and the parents and grandparents of the
23 taxpayer for tax years beginning after December 31, 1996;
- 24 (h) light vehicle registration fees, as provided for in 61-3-560 through 61-3-562, paid during the tax year;
25 and
- 26 (i) per capita livestock fees imposed pursuant to 15-24-921, 15-24-922, 81-6-104, 81-6-204, 81-6-209,
27 81-7-118, or 81-7-201.
- 28 (2) (a) Subject to the conditions of subsection (1)(c), a taxpayer who operates a family day-care home
29 or a group day-care home, as these terms are defined in 52-2-703, and who cares for the taxpayer's own child
30 and at least one unrelated child in the ordinary course of business may deduct employment-related expenses

1 considered to have been paid for the care of the child.

2 (b) The amount of employment-related expenses considered to have been paid by the taxpayer is equal
3 to the amount that the taxpayer charges for the care of a child of the same age for the same number of hours
4 of care. The employment-related expenses apply regardless of whether any expenses actually have been paid.
5 Employment-related expenses may not exceed the amounts specified in subsection (1)(c)(iv)(B).

6 (c) Only a day-care operator who is licensed and registered as required in 52-2-721 is allowed the
7 deduction under this subsection (2).

8 (3) (a) Notwithstanding the provisions of subsections (1) and (2), for tax years beginning after December
9 31, 2003, and before January 1, 2006, the following, whether the deduction is authorized by federal or state law,
10 are not allowed to be deducted in computing net income:

11 (i) medical insurance premiums authorized under this section and federal law;

12 (ii) deductible medical and dental expenses in excess of 7.5% of Montana adjusted gross income;

13 (iii) child and dependent care expenses under this section;

14 (iv) casualty and theft losses authorized under federal law;

15 (v) unreimbursed employee business expenses authorized under federal law;

16 (vi) gambling losses, as allowed by federal law;

17 (vii) charitable contributions authorized under federal law."

18
19 **NEW SECTION. Section 2. Suspension of certain credits.** The credits allowed in the following
20 sections for tax years beginning after December 31, 2003, and before January 1, 2006, may not be used against
21 the taxes imposed under 15-30-103, except to the extent of a carryover of a credit claimed prior to [the effective
22 date of this act] for which a carryover is specifically allowed: 15-30-121; 15-30-128; 15-30-129; 15-30-162;
23 15-30-163; 15-30-164; 15-30-168; 15-30-180; 15-30-181; 15-30-186; 15-32-109; 15-32-115; 15-32-402;
24 15-32-503; 15-32-602; 17-6-316; and 90-8-202.

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26 **NEW SECTION. Section 3. Suspension of certain credits.** The credits allowed in the following
27 sections for tax years beginning after December 31, 2003, and before January 1, 2006, may not be used against
28 the taxes imposed under this chapter, except to the extent of a carryover of a credit claimed prior to [the effective
29 date of this act] for which a carryover is specifically allowed: 15-30-164; 15-30-181; 15-31-123; 15-31-125;
30 15-31-131; 15-31-132; 15-31-135; 15-31-136; 15-31-150; 15-31-151; 15-32-402; 15-32-503; 15-32-602;

1 17-6-316; and 90-8-202.

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3 **Section 4.** Section 15-30-128, MCA, is amended to read:

4 **"15-30-128. Credit for expense of caring for certain elderly family members.** (1) ~~There~~ Except as
5 provided in [section 2], there is a credit against the tax imposed by this chapter for qualified elderly care
6 expenses paid by an individual for the care of a qualifying family member during the taxable year.

7 (2) A qualifying family member is an individual who:

8 (a) is related to the taxpayer by blood or marriage;

9 (b) (i) is at least 65 years of age; or

10 (ii) has been determined to be disabled by the social security administration; and

11 (c) has a family income of \$15,000 or less for an unmarried individual and \$30,000 or less for a married
12 individual for the taxable year.

13 (3) For purposes of this section, "family income" means, in the case of an individual who is not married,
14 the gross income, including all nontaxable income, of the individual or, in the case of a married individual, the
15 gross income, including all nontaxable income, of the individual and the individual's spouse.

16 (4) Qualified elderly care expenses include:

17 (a) payments by the taxpayer for home health agency services, personal-care attendant services and
18 care in a long-term care facility, as defined in 50-5-101, that is licensed by the department of public health and
19 human services, homemaker services, adult day care, respite care, or health care equipment and supplies:

20 (i) provided to the qualifying family member;

21 (ii) provided by an organization or individual not related to the taxpayer or the qualifying family member;

22 and

23 (iii) not compensated for by insurance or otherwise;

24 (b) premiums paid for long-term care insurance coverage for a qualifying family member.

25 (5) The percentage amount of credit allowable under this section is:

26 (a) for a taxpayer whose adjusted gross income does not exceed \$25,000, 30% of qualified elderly care
27 expenses; or

28 (b) for a taxpayer whose adjusted gross income exceeds \$25,000, the greater of:

29 (i) 20% of qualified elderly care expenses; or

30 (ii) 30% of qualified elderly care expenses, less 1% for each \$2,000 or fraction of \$2,000 by which the

1 adjusted gross income of the taxpayer for the taxable year exceeds \$25,000.

2 (6) The dollar amount of credit allowable under this section is:

3 (a) reduced by \$1 for each dollar of the adjusted gross income over \$50,000 for a taxpayer whose
4 adjusted gross income exceeds \$50,000;

5 (b) limited to \$5,000 per qualifying family member in a taxable year and to \$10,000 total for two or more
6 family members in a taxable year;

7 (c) prorated among multiple taxpayers who each contribute to qualified elderly care expenses of the
8 same qualified family member in a taxable year in the same proportion that their contributions bear to the total
9 qualified elderly care expenses paid by those taxpayers for that qualified family member.

10 (7) A deduction or credit is not allowed under any other provision of this chapter with respect to any
11 amount for which a credit is allowed under this section. The credit allowed under this section may not be claimed
12 as a carryback or carryforward and may not be refunded if the taxpayer has no tax liability.

13 (8) In the case of a married individual filing a separate return, the percentage amount of credit under
14 subsection (5) and the dollar amount of credit under subsection (6) are limited to one-half of the figures indicated
15 in those subsections."

16

17 **Section 5.** Section 15-30-129, MCA, is amended to read:

18 "**15-30-129. Tax credit for providing disability insurance for employees.** ~~There~~ Except as provided
19 in [section 2], there is a credit against the taxes otherwise due under this chapter allowable to an employer for
20 the amount of premiums for disability insurance paid by the employer for his employees. The tax credit must be
21 computed in accordance with the provisions of 15-31-132."

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23 **Section 6.** Section 15-30-162, MCA, is amended to read:

24 "**15-30-162. Investment credit.** (1) ~~There~~ Except as provided in [section 2], there is allowed as a credit
25 against the tax imposed by 15-30-103 a percentage of the credit allowed with respect to certain depreciable
26 property under section 38 of the Internal Revenue Code of 1954 (26 U.S.C. 38) or as that section may be
27 renumbered or amended. However, rehabilitation costs as set forth under section 46 of the Internal Revenue
28 Code of 1954 (26 U.S.C. 46), or as that section may be renumbered or amended, are not to be included in the
29 computation of the investment credit. The credit is allowed for the purchase and installation of certain qualified
30 property defined by section 38 of the Internal Revenue Code of 1954 (26 U.S.C. 38), as amended, if the property

1 meets all of the following qualifications:

2 (a) it was placed in service in Montana; and

3 (b) it was used for the production of Montana adjusted gross income.

4 (2) The amount of the credit allowed for the ~~taxable~~ tax year is 5% of the amount of credit determined
5 under section 46 of the Internal Revenue Code of 1954 (26 U.S.C. 46) or as that section may be renumbered
6 or amended.

7 (3) Notwithstanding the provisions of subsection (2), the investment credit allowed for the ~~taxable~~ tax
8 year may not exceed the taxpayer's tax liability for the ~~taxable~~ tax year or \$500, whichever is less.

9 (4) If property for which an investment credit is claimed is used both inside and outside this state, only
10 a portion of the credit is allowed. The credit must be apportioned according to a fraction the numerator of which
11 is the number of days during the ~~taxable~~ tax year the property was located in Montana and the denominator of
12 which is the number of days during the ~~taxable~~ tax year the taxpayer owned the property. The investment credit
13 may be applied only to the tax liability of the taxpayer who purchases and places in service the property for which
14 an investment credit is claimed. The credit may not be allocated between spouses unless the property is used
15 by a partnership or small business corporation of which they are partners or shareholders.

16 (5) The investment credit allowed by this section is subject to recapture as provided for in section 47
17 of the Internal Revenue Code of 1954 (26 U.S.C. 47) or as that section may be renumbered or amended."
18

19 **Section 7.** Section 15-30-163, MCA, is amended to read:

20 **"15-30-163. Credit for contributions to university system or private college foundations.** (1) ~~An~~
21 Except as provided in [sections 2 and 3], an individual, corporation, partnership, or small business corporation,
22 as defined in 15-30-1101, is allowed a tax credit against taxes imposed by 15-30-103 or 15-31-101 in an amount
23 equal to 10% of the aggregate amount of charitable contributions made by the taxpayer during the year to any
24 of the general endowment funds of the Montana university system foundations or a general endowment fund
25 of a Montana private college or its foundation. The maximum credit that a taxpayer may claim in a year under
26 this section is \$500. The credit allowed under this section may not exceed the taxpayer's income tax liability.

27 (2) There is no carryback or carryforward of the credit permitted under this section, and the credit must
28 be applied in the year the donation is made, as determined by the taxpayer's accounting method.

29 (3) (a) For the purposes of this section, "foundation" means a nonprofit organization that is created
30 exclusively for the benefit of any unit of the Montana university system or a Montana private college and that is

1 exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

2 (b) For the purposes of this section, "Montana private college" means a nonprofit private educational
3 institution:

4 (i) whose main campus and primary operations are within the state; and

5 (ii) that offers baccalaureate degree level education and is accredited for that purpose by a national or
6 regional accrediting agency recognized by the board of regents of higher education."

7

8 **Section 8.** Section 15-30-164, MCA, is amended to read:

9 **"15-30-164. Credit for alternative fuel motor vehicle conversion.** (1) (a) Except as provided in
10 sections 2 and 3 and subsection (1)(b) of this section, an individual, a corporation, a partnership, or a small
11 business corporation as defined in 15-30-1101 is allowed a tax credit against taxes imposed by 15-30-103 or
12 15-31-101 for equipment and labor costs incurred to convert a motor vehicle licensed in Montana to operate on
13 alternative fuel.

14 (b) A seller of alternative fuel may not receive a credit for converting its own vehicles to the alternative
15 fuel that it sells.

16 (2) The maximum credit a taxpayer may claim in a year under this section is an amount equal to 50%
17 of the equipment and labor costs incurred but the credit may not exceed:

18 (a) \$500 for conversion of a motor vehicle with a gross weight of 10,000 pounds or less; or

19 (b) \$1,000 for conversion of a motor vehicle with a gross vehicle weight over 10,000 pounds.

20 (3) For the purposes of this section, "alternative fuel" means:

21 (a) natural gas;

22 (b) liquefied petroleum gas;

23 (c) liquefied natural gas;

24 (d) hydrogen;

25 (e) electricity; or

26 (f) any other fuel if at least 85% of the fuel is methanol, ethanol or other alcohol, ether, or any
27 combination of them.

28 (4) (a) The credit allowed under this section may not exceed the taxpayer's income tax liability.

29 (b) There is no carryback or carryforward of the credit permitted under this section, and the credit must
30 be applied in the year the conversion is made, as determined by the taxpayer's accounting method."

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Section 9. Section 15-30-168, MCA, is amended to read:

"15-30-168. Qualified research tax credit. ~~There~~ Except as provided in [section 2], there is a credit against taxes otherwise due under this chapter allowable for qualified research. The credit must be computed and administered as provided in 15-31-150."

Section 10. Section 15-30-180, MCA, is amended to read:

"15-30-180. (Temporary) Credit for preservation of historic property. (1) ~~There~~ Except as provided in [section 2], there is allowed as a credit against the taxes imposed by 15-30-103 a percentage of the credit allowed for qualified rehabilitation expenditures with respect to any certified historic building located in Montana as provided in 15-31-151.

(2) (a) As an alternative to the credit allowed in subsection (1), there is allowed as a credit against the taxes imposed by 15-30-103 an amount equal to 20% of the cost of creating the conservation easement and the diminution in the value of a historically significant property, including buildings and structures, that may result from a contract that places a conservation easement on the property if:

(i) the conservation easement holder is a qualified private organization as defined in 76-6-104;

(ii) the owner of the property is obligated by the contract creating the easement to maintain and preserve the property to retain its historical significance and characteristics for a period of not less than 29 years; and

(iii) the state historic preservation officer, provided for in 2-15-1512, verifies that a property is listed on the national register of historic places or that the property is historically valuable.

(b) For the purposes of this section, property is historically valuable if the property has, as certified by the state historic preservation office, significant qualities reflecting American history, architecture, engineering, or culture that was achieved prior to the last 50 years and the property possesses integrity of location, design, setting, materials, and workmanship and:

(i) is associated with events that have made a significant contribution to the broad patterns of Montana's or the nation's history;

(ii) is associated with the lives of persons significant in our past;

(iii) embodies the distinctive characteristics of a type, period, or method of construction, represents the work of a master, possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or

1 (iv) has yielded, or may be likely to yield, information important in history.

2 (c) In addition to any of the tax credit allowed in subsection (2)(a), the owner of a historically significant
3 property, including buildings and structures, that is the subject of a conservation easement contract may take
4 as a credit against the taxes imposed by 15-30-103 an amount equal to 20% of the amount spent by the owner
5 for the direct cost of the protection and the preservation of the property if the preservation efforts are approved
6 as reasonable and necessary by the conservation easement holder. The tax credit may not exceed \$25,000 a
7 year.

8 (3) The maximum tax credit that may be taken under subsection (2) for each historically significant
9 property is \$150,000.

10 (4) The credit allowed by subsection (2) may not be refunded if the taxpayer has a tax liability less than
11 the amount of the credit. If the sum of credit carryovers from the credit, if any, and the amount of credit allowed
12 by subsection (2) for the tax year exceed the taxpayer's tax liability for the current tax year, the excess
13 attributable to the current tax year's credit is a credit carryover to the 6 succeeding tax years. The entire amount
14 of unused credit must be carried forward to the earliest of the succeeding years, and the oldest available unused
15 credit must be used first.

16 (5) A person may not take a credit against taxes due in any 1 year under both subsection (1) and (2).

17 (6) The credit allowed in subsection (1) may not be allocated between spouses unless the property is
18 used by a small business corporation or a partnership in which they are shareholders or partners. (Terminates
19 December 31, 2011--sec. 3, Ch. 538, L. 2001.)

20 **15-30-180. (Effective January 1, 2012) Credit for preservation of historic buildings.** (1) There is
21 allowed as a credit against the taxes imposed by 15-30-103 a percentage of the credit allowed for qualified
22 rehabilitation expenditures with respect to any certified historic building located in Montana as provided in
23 15-31-151.

24 (2) The credit may not be allocated between spouses unless the property is used by a small business
25 corporation or a partnership in which they are shareholders or partners."

26

27 **Section 11.** Section 15-30-181, MCA, is amended to read:

28 **"15-30-181. (Temporary) Credit for contributions to affordable housing revolving loan account.**

29 (1) ~~A~~ Except as provided in [sections 2 and 3], a taxpayer is allowed a tax credit against the taxes imposed by
30 15-30-103 or 15-31-101 in an amount equal to 20% of the amount donated by an individual taxpayer or 10% of

1 the amount donated by a taxpayer under Title 15, chapter 31, during the year to the affordable housing revolving
2 loan account established in 90-6-133. The maximum credit that may be claimed by a taxpayer is \$10,000. The
3 credit allowed under this section may not exceed the taxpayer's income tax liability.

4 (2) The credit allowed under this section may not be claimed by a taxpayer if the taxpayer has included
5 the full amount of the contribution upon which the amount of the credit was computed as a deduction under
6 15-30-121(1), 15-30-136(2), or 15-31-114.

7 (3) The credit allowed under this section may not be claimed by a taxpayer if the taxpayer has claimed
8 a credit for a contribution to a qualified endowment under the provisions of 15-30-165 through 15-30-167,
9 15-31-161, or 15-31-162 for a contribution to the affordable housing revolving loan account.

10 (4) There is no carryback or carryforward of the credit permitted under this section, and the credit must
11 be applied to the tax year in which the contribution is made. (Terminates December 31, 2004--sec. 7, Ch. 411,
12 L. 2001.)"

13

14 **Section 12.** Section 15-30-186, MCA, is amended to read:

15 **"15-30-186. Credit for dependent care assistance and referral services.** (1) ~~There~~ Except as
16 provided in [section 2], there is a credit against the taxes otherwise due under this chapter allowable to an
17 employer for amounts paid or incurred during the tax year by the employer for dependent care assistance. The
18 credit must be computed in accordance with the provisions of 15-31-131.

19 (2) ~~In~~ Except as provided in [section 2], in addition to the credit allowed under subsection (1), there is
20 a credit against the taxes otherwise due under this chapter allowable to an employer for amounts paid or
21 incurred during the tax year by the employer to provide information and referral services to assist employees
22 of the employer employed within this state to obtain dependent care. The credit must be computed in
23 accordance with the provisions of 15-31-131."

24

25 **Section 13.** Section 15-31-123, MCA, is amended to read:

26 **"15-31-123. Investment credit.** (1) The purpose of this section is to allow small businesses to take an
27 investment credit as provided for in subsection (3) and to stimulate capital investment by the small business
28 sector.

29 (2) For the purposes of this section, "small business" means a business that does not have:

30 (a) more than 10 shareholders;

1 (b) a person who is not an individual (other than an estate or other than a trust described in subsection
2 (8)) as a shareholder;

3 (c) a nonresident alien as a shareholder; and

4 (d) more than one class of stock.

5 (3) ~~There~~ Except as provided in [section 3], there is allowed as a credit against the taxes imposed by
6 15-31-101, 15-31-121, and 15-31-122 a percentage of the credit allowed with respect to certain depreciable
7 property under section 38 of the Internal Revenue Code of 1954, as amended, or as section 38 may be
8 renumbered or amended. However, rehabilitation costs as set forth under section 46(a)(2)(F) of the Internal
9 Revenue Code of 1954, or as section 46(a)(2)(F) may be renumbered or amended, are not to be included in the
10 computation of the investment credit. The credit is allowed for the purchase and installation of certain qualified
11 property defined by section 38 of the Internal Revenue Code of 1954, as amended, if the property meets all of
12 the following qualifications:

13 (a) it was placed in service in Montana; and

14 (b) it was used for the production of Montana income.

15 (4) The amount of the credit allowed for the ~~taxable tax~~ year is 5% of the amount of credit determined
16 under section 46(a)(2) of the Internal Revenue Code of 1954, as amended, or as section 46(a)(2) may be
17 renumbered or amended.

18 (5) Notwithstanding the provisions of subsection (4), the investment credit allowed for the ~~taxable tax~~
19 year may not exceed \$500.

20 (6) If property for which an investment credit is claimed is used both inside and outside this state, only
21 a portion of the credit is allowed. The credit must be apportioned according to a fraction the numerator of which
22 is the number of days during the ~~taxable tax~~ year the property was located in Montana and the denominator of
23 which is the number of days during the ~~taxable tax~~ year the taxpayer owned the property. The investment credit
24 may be applied only to the tax liability of the taxpayer who purchases and places in service the property for which
25 an investment credit is claimed.

26 (7) The investment credit allowed by this section is subject to recapture as provided for in section 47
27 of the Internal Revenue Code of 1954, as amended, or as section 47 may be renumbered or amended.

28 (8) (a) For purposes of subsection (2)(b), any of the following trusts may be a shareholder without
29 disqualifying the business for the investment credit:

30 (i) a trust all of which is treated as owned by the grantor under sections 671 through 678 of the Internal

1 Revenue Code;

2 (ii) a trust created primarily to exercise the voting power of stock transferred to it;

3 (iii) any trust with respect to stock transferred to it pursuant to the terms of a will, but only for the 60-day
4 period beginning on the day on which such stock is transferred to it.

5 (b) In the case of a trust described in subsection (8)(a)(ii), each beneficiary of the trust ~~shall~~ must be
6 treated as a shareholder."

7

8 **Section 14.** Section 15-31-125, MCA, is amended to read:

9 **"15-31-125. Determination of tax credit.** A Except as provided in [section 3], a new or expanding
10 manufacturing corporation may receive a license tax credit based on a percentage of wages paid its new
11 employees within this state for a period of 3 years as follows: the first 3 years of operation of a new corporation
12 or the first 3 years of expansion of an expanding corporation, a credit of 1% of the total new wages paid in this
13 state, as wages are defined in 39-51-201 may be allowed. In determining total wages for an expanding
14 corporation, only those wages paid in support of the expansion are considered in ascertaining the credit. The
15 payroll and number of jobs of the corporation in the 12-month period immediately preceding the expansion are
16 averaged to determine eligibility for the credit."

17

18 **Section 15.** Section 15-31-131, MCA, is amended to read:

19 **"15-31-131. Credit for dependent care assistance and referral services.** (1) ~~There~~ Except as
20 provided in [section 3], there is a credit against the taxes otherwise due under this chapter allowable to an
21 employer for amounts paid or incurred during the tax year by the employer for dependent care assistance
22 actually provided to or on behalf of an employee if the assistance is furnished by a registered or licensed
23 day-care provider and pursuant to a program that meets the requirements of section 129(d)(2) through (6) of the
24 Internal Revenue Code, 26 U.S.C. 129(d)(2) through (d)(6).

25 (2) (a) The amount of the credit allowed under subsection (1) is 25% of the amount paid or incurred by
26 the employer during the tax year, but the credit may not exceed \$1,575 of day-care assistance actually provided
27 to or on behalf of the employee.

28 (b) For the purposes of this subsection, marital status must be determined under the rules of section
29 21(e)(3) and (4) of the Internal Revenue Code, 26 U.S.C. 21(e)(3) and (e)(4).

30 (c) In the case of an onsite facility, the amount upon which the credit allowed under subsection (1) is

1 based, with respect to any dependent, must be based upon utilization and the value of the services provided.

2 (3) (a) In addition to the credit allowed under subsection (1), there is a credit against the taxes otherwise
3 due under this chapter allowable to an employer for amounts paid or incurred during the tax year by the
4 employer to provide information and referral services to assist employees of the employer employed within this
5 state to obtain dependent care.

6 (b) The amount of the credit allowed under subsection (3)(a) is equal to 25% of the amount paid or
7 incurred in the tax year.

8 (4) An amount paid or incurred during the tax year of an employer in providing dependent care
9 assistance to or on behalf of any employee does not qualify for the credit allowed under subsection (1) if the
10 amount was paid or incurred to an individual described in section 129(c)(1) or (2) of the Internal Revenue Code,
11 26 U.S.C. 129(c)(1) or (c)(2).

12 (5) An amount paid or incurred by an employer to provide dependent care assistance to or on behalf
13 of an employee does not qualify for the credit allowed under subsection (1):

14 (a) to the extent the amount is paid or incurred pursuant to a salary reduction plan; or

15 (b) if the amount is paid or incurred for services not performed within this state.

16 (6) If the credit allowed under subsection (1) or (3) is claimed, the amount of any deduction allowed or
17 allowable under this chapter for the amount that qualifies for the credit (or upon which the credit is based) must
18 be reduced by the dollar amount of the credit allowed. The election to claim a credit allowed under this section
19 must be made at the time of filing the tax return.

20 (7) The amount upon which the credit allowed under subsection (1) is based may not be included in the
21 gross income of the employee to whom the dependent care assistance is provided. However, the amount
22 excluded from the income of an employee under this section may not exceed the limitations provided in section
23 129(b) of the Internal Revenue Code, 26 U.S.C. 129(b). For purposes of Title 15, chapter 30, part 2, with respect
24 to an employee to whom dependent care assistance is provided, "wages" does not include any amount excluded
25 under this subsection. Amounts excluded under this subsection do not qualify as expenses for which a deduction
26 is allowed to the employee under 15-30-121.

27 (8) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular
28 year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any
29 credit remaining unused in the next succeeding tax year may be carried forward and used in the second
30 succeeding tax year and likewise through the fifth year succeeding the tax year in which the credit was first

1 allowed or allowable. A credit may not be carried forward beyond the fifth succeeding tax year.

2 (9) If the taxpayer is an S. corporation, as defined in section 1361 of the Internal Revenue Code, 26
3 U.S.C. 1361, and the taxpayer elects to take tax credit relief, the election may be made on behalf of the
4 corporation's shareholders. A shareholder's credit must be computed using the shareholder's pro rata share of
5 the corporation's costs that qualify for the credit. In all other respects, the effect of the tax credit applies to the
6 corporation as otherwise provided by law.

7 (10) For purposes of the credit allowed under subsection (1) or (3):

8 (a) the definitions and special rules contained in section 129(e) of the Internal Revenue Code, 26 U.S.C.
9 129(e), apply to the extent applicable; and

10 (b) "employer" means an employer carrying on a business, trade, occupation, or profession in this
11 state."

12

13 **Section 16.** Section 15-31-132, MCA, is amended to read:

14 **"15-31-132. Tax credit for providing disability insurance for employees.** ~~An~~ Except as provided in
15 [section 3], an employer is entitled to a credit against taxes otherwise due under this chapter for the amount of
16 premiums for disability insurance paid by the employer for the employer's employees, subject to the following
17 requirements:

18 (1) The tax credit is available only to employers who:

19 (a) have been in business in Montana for at least 12 months; and

20 (b) employ 20 or fewer employees working at least 20 hours a week.

21 (2) At least 50% of each employee's insurance premium is paid by the employer.

22 (3) Subject to the provisions of subsection (4), an employer is entitled to a tax credit for a maximum of
23 10 employees, computed as follows:

24 (a) a credit of \$25 a month for each employee if the employer pays 100% of the employee's premium;
25 or

26 (b) a credit equal to \$25 a month multiplied by the percentage of the employee's premium paid by the
27 employer for each employee if the employer pays less than 100% of the employee's premium.

28 (4) The credit may not exceed 50% of the premium cost for each employee and may not be claimed
29 for a period of more than 36 consecutive months. A tax credit may not be granted to an employer or the
30 employer's successor within 10 years of the last consecutive credit claimed.

1 (5) The credit allowed under this section may not be claimed as a carryback or carryforward and may
2 not be refunded if the employer has no tax liability."

3

4 **Section 17.** Section 15-31-135, MCA, is amended to read:

5 **"15-31-135. Contribution by small business corporation.** ~~A~~ Except as provided in [section 3], a
6 contribution to a general endowment fund of the Montana university system or a Montana private college by a
7 small business corporation, as defined in 15-30-1101, qualifies for the credit in 15-30-163. The credit must be
8 attributed to shareholders, using the same proportion used to report the corporation's income or loss for Montana
9 income tax purposes."

10

11 **Section 18.** Section 15-31-136, MCA, is amended to read:

12 **"15-31-136. Contribution by partnership.** ~~A~~ Except as provided in [section 3], a contribution to a
13 general endowment fund of the Montana university system or a Montana private college by a partnership
14 qualifies for the credit in 15-30-163. The credit must be attributed to partners, using the same proportion used
15 to report the partnership's income or loss for Montana tax purposes."

16

17 **Section 19.** Section 15-31-150, MCA, is amended to read:

18 **"15-31-150. Credit for research expenses and research payments.** (1) (a) ~~There~~ Except as provided
19 in [section 3], there is a credit against taxes otherwise due under this chapter for increases in qualified research
20 expense and basic research payments for research conducted in Montana. Except as provided in this section,
21 the credit must be determined in accordance with section 41 of the Internal Revenue Code, 26 U.S.C. 41, as
22 that section read on July 1, 1996, or as subsequently amended.

23 (b) For purposes of the credit, the:

24 (i) applicable percentage specified in 26 U.S.C. 41(a) is 5%;

25 (ii) election of the alternative incremental credit allowed under 26 U.S.C. 41(c)(4) does not apply;

26 (iii) special rules in 26 U.S.C. 41(g) do not apply; and

27 (iv) termination date provided for in 26 U.S.C. 41(h) does not apply.

28 (2) The credit allowed under this section for a tax year may not exceed the tax liability under chapter
29 30 or 31. A credit may not be refunded if a taxpayer has tax liability less than the amount of the credit.

30 (3) The credit allowed under this section may be used as a carryback against taxes imposed under

1 chapter 30 or 31 for the 2 preceding tax years and may be used as a carryforward against taxes imposed by
2 chapter 30 or 31 for the 15 succeeding tax years. The entire amount of the credit not used in the year earned
3 must be carried first to the earliest tax year in which the credit may be applied and then to each succeeding tax
4 year.

5 (4) A taxpayer may not claim a current year credit under this section after December 31, 2010. However,
6 any unused credit may be carried back or forward as provided in subsection (3).

7 (5) A corporation, an individual, a small business corporation, a partnership, a limited liability
8 partnership, or a limited liability company qualifies for the credit under this section. If the credit is claimed by a
9 small business corporation, a partnership, a limited liability partnership, or a limited liability company, the credit
10 must be attributed to the individual shareholders, partners, members, or managers in the same proportion used
11 to report income or loss for state tax purposes. The allocations in 26 U.S.C. 41(f) do not apply to this section.

12 (6) For purposes of calculating the credit, the following definitions apply:

13 (a) "Gross receipts" means:

14 (i) for a corporation that has income from business activity that is taxable only within the state, all gross
15 sales less returns of the corporation for the tax year; and

16 (ii) for a corporation that has income from business activity that is taxable both within and outside of the
17 state, only the gross sales less returns of the corporation apportioned to Montana for the tax year.

18 (b) "Qualified research" has the meaning provided in 26 U.S.C. 41(d), but is limited to research
19 conducted in Montana.

20 (c) "Qualified research expenses" has the meaning provided in 26 U.S.C. 41(b), but includes only the
21 sum of amounts paid or incurred by the taxpayer for research conducted in Montana.

22 (d) "Supplies" has the meaning provided in 26 U.S.C. 42(b)(2)(C), but includes only those supplies used
23 in the conduct of qualified research in Montana.

24 (e) "Wages" has the meaning provided in 39-51-201 and includes only those wages paid or incurred
25 for an employee for qualified services performed by the employee in Montana. For a self-employed individual
26 and an owner-employee, the term includes the income, as defined in 26 U.S.C. 401(c)(2), of the employee.

27 (7) The department shall adopt rules, prepare forms, maintain records, and perform other duties
28 necessary to implement this section. In adopting rules to implement this section, the department shall conform
29 the rules to regulations prescribed by the secretary of the treasury under 26 U.S.C. 41 except to the extent that
30 the regulations need to be modified to conform to this section."

1

2 **Section 20.** Section 15-31-151, MCA, is amended to read:

3 **"15-31-151. Credit for preservation of historic buildings.** (1) (a) ~~There~~ Except as provided in [section
4 3], there is allowed as a credit against the taxes imposed by 15-31-101, 15-31-121, and 15-31-122 a percentage
5 of the credit allowed for qualified rehabilitation expenditures, with respect to any certified historic building located
6 in Montana, as provided in 26 U.S.C. 47 or as that section may be renumbered or amended.

7 (b) The amount of the credit allowed for a tax year is 25% of the amount of the credit determined under
8 26 U.S.C. 47(a)(2) or as that section may be renumbered or amended.

9 (2) The credit allowed by this section may not be refunded if the taxpayer has a tax liability less than
10 the amount of the credit. If the sum of credit carryovers from the credit, if any, and the amount of credit allowed
11 by this section for the tax year exceeds the taxpayer's tax liability for the current tax year, the excess attributable
12 to the current tax year's credit is a credit carryover to the 7 succeeding tax years. The entire amount of unused
13 credit must be carried forward to the earliest of the succeeding years, and the oldest available unused credit
14 must be used first.

15 (3) If the credit under this section is claimed by a small business corporation, as defined in 15-30-1101,
16 or a partnership, the credit must be attributed to shareholders or partners, using the same proportion used to
17 report the corporation's or partnership's income or loss for Montana income tax purposes."
18

19 **Section 21.** Section 15-32-109, MCA, is amended to read:

20 **"15-32-109. Credit for energy-conserving expenditures.** (1) ~~Subject~~ Except as provided in [section
21 2] and subject to the restrictions of subsections (2) and (3) of this section, a resident individual taxpayer may take
22 a credit against the taxpayer's tax liability under chapter 30 for 25% of the taxpayer's expenditure for a capital
23 investment in the physical attributes of a building or the installation of a water, heating, or cooling system in the
24 building, so long as either type of investment is for an energy conservation purpose, in an amount not to exceed
25 \$500.

26 (2) The credit or the sum of the credits under subsection (1):

27 (a) may not exceed the taxpayer's tax liability; and

28 (b) is subject to the provisions of 15-32-104.

29 (3) The credit allowed under this section may be used as a carryforward against taxes imposed under
30 chapter 30 for the 7 succeeding tax years. The entire amount of the credit not used in the year that it was earned

1 must be carried first to the earliest tax year in which the credit may be applied and then to each succeeding tax
2 year."

3

4 **Section 22.** Section 15-32-115, MCA, is amended to read:

5 **"15-32-115. Credit for geothermal system -- to whom available -- eligible costs -- limitations. (1)**

6 ~~A~~ Except as provided in [section 2], a resident individual taxpayer who completes installation of a geothermal
7 system, as defined in 15-32-102, in the taxpayer's principal dwelling is entitled to claim a tax credit, as provided
8 in subsection (3), against the taxpayer's tax liability under chapter 30 for a portion of the installation costs of the
9 system, not to exceed \$1,500. The amount of the credit not used in the year in which the installation is made
10 may be carried forward against taxes imposed under chapter 30 for the 7 succeeding tax years. The entire
11 amount of the credit not used in the year that it was earned must be carried first to the earliest tax year in which
12 the credit may be applied and then to each succeeding tax year.

13 (2) For the purposes of this section, installation costs include the cost of:

14 (a) trenching, well drilling, casing, and downhole heat exchangers;

15 (b) piping, control devices, and pumps that move heat from the earth to heat or cool the building;

16 (c) ground source or ground coupled heat pumps;

17 (d) liquid-to-air heat exchanger, ductwork, and fans installed with a ground heat well that pump heat
18 from a well into a building; and

19 (e) design and labor."

20

21 **Section 23.** Section 15-32-402, MCA, is amended to read:

22 **"15-32-402. Commercial or net metering system investment credit -- alternative energy systems.**

23 (1) ~~An~~ Except as provided in [sections 2 and 3], an individual, corporation, partnership, or small business
24 corporation as defined in 15-30-1101 that makes an investment of \$5,000 or more in certain depreciable
25 property qualifying under section 38 of the Internal Revenue Code of 1954, as amended, for a commercial
26 system or a net metering system, as defined in 69-8-103, that is located in Montana and that generates energy
27 by means of an alternative renewable energy source, as defined in 90-4-102, is entitled to a tax credit against
28 taxes imposed by 15-30-103 or 15-31-121 in an amount equal to 35% of the eligible costs, to be taken as a
29 credit only against taxes due as a consequence of taxable or net income produced by one of the following:

30 (a) manufacturing plants located in Montana that produce alternative energy generating equipment;

1 (b) a new business facility or the expanded portion of an existing business facility for which the
2 alternative energy generating equipment supplies, on a direct contract sales basis, the basic energy needed;
3 or

4 (c) the alternative energy generating equipment in which the investment for which a credit is being
5 claimed was made.

6 (2) For purposes of determining the amount of the tax credit that may be claimed under subsection (1),
7 eligible costs include only those expenditures that qualify under section 38 of the Internal Revenue Code of
8 1954, as amended, and that are associated with the purchase, installation, or upgrading of:

9 (a) generating equipment;

10 (b) safety devices and storage components;

11 (c) transmission lines necessary to connect with existing transmission facilities; and

12 (d) transmission lines necessary to connect directly to the purchaser of the electricity when no other
13 transmission facilities are available.

14 (3) Eligible costs under subsection (2) must be reduced by the amount of any grants provided by the
15 state or federal government for the system."
16

17 **Section 24.** Section 15-32-503, MCA, is amended to read:

18 **"15-32-503. Exploration incentive credit.** (1) The Subject to the provisions of [sections 2 and 3], the
19 department shall grant to a person a credit against the person's tax liability under Title 15, chapter 30 or 31, for
20 the certified expenditures of each of the following exploration activities that are performed on land in the state
21 for the purpose of determining the existence, location, extent, or quality of a mineral or coal deposit, regardless
22 of land ownership:

23 (a) surveying by geophysical or geochemical methods;

24 (b) drilling exploration holes;

25 (c) conducting underground exploration;

26 (d) surface trenching and bulk sampling; or

27 (e) performing other exploratory work, including aerial photographs, geological and geophysical logging,
28 sample analysis, and metallurgical testing.

29 (2) (a) Except as provided in subsection (3), credit may not be granted under subsection (1) for
30 exploration activity described in subsection (1) that occurs after the construction commencement date of a new

1 mine.

2 (b) For the purposes of this subsection (2), "construction commencement date of a new mine" means
3 the date no later than which all of the following have occurred:

4 (i) there has been issued to the owner or an agent of the owner permits, leases, title and other rights
5 in land, and other approvals, permits, licenses, and certificates by federal, state, and local agencies that a
6 reasonable and prudent person would consider adequate to commence construction of a mine in the expectation
7 that all other approvals, permits, licenses, and certificates necessary for the completion of the facilities will be
8 obtained;

9 (ii) all approvals, permits, licenses, and certificates are in full force and effect and without any
10 modification that might jeopardize the completion or continued construction of the mine; and

11 (iii) an order, judgment, decree, determination, or award of a court or administrative or regulatory agency
12 enjoining, either temporarily or permanently, the construction or the continuation of construction of the mine is
13 not in effect.

14 (3) In addition to the grant of a credit for a new mine under subsection (2), a credit may be granted
15 under subsection (1) for exploration activity for a mine that had previously operated, that has ceased to operate,
16 and for which all previous mining approvals, permits, licenses, and certificates that allowed the previous
17 operation are no longer in effect. However, a credit may not be granted under subsection (1) for exploration
18 activity that occurs after the mine reopening date. For the purposes of this subsection (3), "mine reopening date"
19 means the date not later than which all of the following have occurred:

20 (a) there has been issued to the owner or an agent of the owner permits, leases, title and other rights
21 in land, and other approvals, permits, licenses, and certificates by federal, state, and local agencies that a
22 reasonable and prudent person would consider adequate to commence operation of the former mine in the
23 expectation that all other approvals, permits, licenses, and certificates necessary for the completion of the
24 facilities will be obtained;

25 (b) all approvals, permits, licenses, and certificates for the reopened mine are in full force and effect
26 and without any modification that might jeopardize the reopening of the former mine; and

27 (c) an order, judgment, decree, determination, or award of a court or administrative or regulatory agency
28 enjoining, either temporarily or permanently, the reopening of the former mine is not in effect."
29

30 **Section 25.** Section 15-32-602, MCA, is amended to read:

1 **"15-32-602. (Temporary) Amount and duration of credit -- how claimed.** (1) ~~An~~ Except as provided
2 in [sections 2 and 3], an individual, corporation, partnership, or small business corporation, as defined in
3 15-30-1101, may receive a credit against taxes imposed by Title 15, chapter 30 or 31, for investments in
4 depreciable property to collect or process reclaimable material or to manufacture a product from reclaimed
5 material, if the taxpayer qualifies under 15-32-603.

6 (2) Subject to subsection (4), a taxpayer qualifying for a credit under 15-32-603 is entitled to claim a
7 credit, as provided in subsection (3), for the cost of each item of property purchased to collect or process
8 reclaimable material or to manufacture a product from reclaimed material only in the year in which the property
9 was purchased.

10 (3) The amount of the credit that may be claimed under this section for investments in depreciable
11 property is determined according to the following schedule:

12 (a) 25% of the cost of the property on the first \$250,000 invested;

13 (b) 15% of the cost of the property on the next \$250,000 invested; and

14 (c) 5% of the cost of the property on the next \$500,000 invested.

15 (4) A credit may not be claimed for investments in depreciable property in excess of \$1 million.
16 (Terminates December 31, 2005--secs. 5, 7, Ch. 398, L. 2001.)"

17

18 **Section 26.** Section 17-6-316, MCA, is amended to read:

19 **"17-6-316. Economic development loan -- infrastructure tax credit.** (1) A loan made pursuant to
20 17-6-309(2) must be used to build infrastructure, as provided for in 7-15-4288(4), such as water systems, sewer
21 systems, water treatment facilities, sewage treatment facilities, and roads, that allows the location or creation
22 of a business in Montana. The loan must be made to a local government that will create the necessary
23 infrastructure. The infrastructure may serve as collateral for the loan. The local government receiving the loan
24 may charge fees to the users of the infrastructure. A loan repayment agreement must provide for repayment of
25 the loan from the entity authorized to charge fees for the use of the services of the infrastructure. Loans made
26 pursuant to 17-6-309(2) qualify for the job credit interest rate reductions under 17-6-318 if the interest rate
27 reduction passes through to the business creating the jobs.

28 (2) A loan pursuant to 17-6-309(2) and this section may not be made until the board is satisfied that the
29 condition in 17-6-309(2) will be met. If the condition contained in 17-6-309(2) is not met, any credits received
30 pursuant to subsection (3) of this section must be returned to the state.

1 (3) ~~A~~ Except as provided in [sections 2 and 3], a business that is created or expanded as the result of
2 a loan made pursuant to 17-6-309(2) and subsection (1) of this section is entitled to a credit against taxes due
3 under Title 15, chapter 30 or 31, for the portion of the fees attributable to the use of the infrastructure. The total
4 amount of tax credit claimed may not exceed the amount of the loan. The credit may be carried forward for 7
5 tax years or carried back for 3 tax years."

6
7 **Section 27.** Section 90-8-202, MCA, is amended to read:

8 **"90-8-202. Designation of qualified Montana capital companies -- designation of qualified**
9 **Montana small business investment capital company -- tax credit.** (1) The department shall designate as:

10 (a) qualified Montana capital companies those certified companies that have been privately capitalized
11 at a minimum level of \$200,000; or

12 (b) a qualified Montana small business investment capital company a certified Montana small business
13 investment capital company once it has been privately capitalized at a minimum level of \$500,000.

14 (2) A certified company seeking designation as a qualified Montana capital company or as a qualified
15 Montana small business investment capital company shall make written application to the department on forms
16 provided by the department. The application must contain the information required by 90-8-204 and other
17 information that the department requires.

18 (3) (a) The total amount of tax credits authorized for a single qualified capital company or a qualified
19 Montana small business investment capital company may not exceed \$1,500,000, except that a qualified
20 Montana small business investment capital company must receive all remaining tax credits under this section
21 available as of January 1, 1991. In the event the capitalization of a qualified capital company is later increased,
22 the company may apply for authorization of additional tax credits within the foregoing limitation.

23 (b) The total credits authorized for all companies may not exceed a total of \$1 million prior to June 30,
24 1985. The total credits authorized for all companies between July 1, 1985, and June 30, 1987, may not exceed
25 \$1 million plus any portion of the \$1 million available for authorization before June 30, 1985, that is allocated to
26 qualified companies. The total credits authorized for all companies between July 1, 1987, and June 30, 1989,
27 may not exceed \$3 million plus any portion of the credits available for authorization before June 30, 1987, that
28 is allocated to qualified companies. The total credits authorized for all companies between July 1, 1989, and
29 June 30, 1991, may not exceed \$3 million plus any portion of the credits available for authorization before June
30 30, 1989, that is allocated to qualified companies.

1 (4) (a) Before January 1, 1991, credits must be allocated to qualified companies in the order that
2 completed applications for designation as qualified capital companies are received by the department, and the
3 department shall certify to each company its appropriate allocation.

4 (b) All tax credits allowed under subsection (3) that are not allocated as of January 1, 1991, must be
5 allocated to a qualified Montana small business investment capital company, and the department shall certify
6 the allocation to the company.

7 (c) If the legislature provides additional tax credits under this chapter after June 30, 1991, or if tax
8 credits become available by reversion to the department by a capital company or by a qualified Montana small
9 business investment capital company, those additional or reverted tax credits must be allocated by the
10 department to qualified capital companies or to a qualified Montana small business investment capital company
11 in accordance with this chapter and the rules of the department.

12 (5) ~~Investors~~ Except as provided in [sections 2 and 3], investors in a qualified Montana capital company
13 or in a qualified Montana small business investment capital company are entitled to the tax credits provided for
14 in subsection (6). Funds invested in a certified company prior to designation as a qualified Montana capital
15 company or as a qualified Montana small business investment capital company may, at the discretion of the
16 investor, be placed in an escrow account in a Montana financial institution pending designation of the company
17 as a qualified Montana capital company or as a qualified Montana small business investment capital company.

18 (6) Subject to the provisions of [sections 2 and 3] and subsections (3) and (9) of this section, an
19 individual, small business corporation, partnership, trust, decedent's estate, or corporate taxpayer that makes
20 a capital investment in a qualified Montana capital company or a qualified Montana small business investment
21 capital company is entitled to a tax credit equal to 50% of the investment, up to a maximum credit for
22 investments in all qualified Montana capital companies of \$150,000 per taxpayer, except that, as applied to a
23 qualified small business investment capital company, the maximum tax credit is \$250,000 per taxpayer and the
24 tax credit limitation relating to a capital investment in a qualified Montana small business investment capital
25 company must be in addition to any other tax credit limitation in this section. The credit may be taken against
26 the tax liability imposed on the investor pursuant to Title 15, chapter 30, 31, or 35. The credit for investments
27 by a small business corporation defined in 15-30-1101 or a partnership may be claimed by the small business
28 corporation shareholders or the partners.

29 (7) The tax credit allowed under subsection (6) is to be credited against the taxpayer's income tax
30 liability or coal severance tax liability for the taxable year in which the investment in a qualified Montana capital

1 company or a qualified Montana small business investment capital company is made. If the amount of the tax
2 credit exceeds the taxpayer's tax liability for the taxable year, the amount of the credit which exceeds the tax
3 liability may be carried back or carried forward in the following manner:

4 (a) If the sum of the amount of credit for the current taxable year plus the amount of credit, if any, carried
5 forward from a previous taxable year exceeds the taxpayer's tax liability for the current taxable year, the excess
6 must be carried back as a credit to the 3 preceding taxable years and, if the full credit remains unused, carried
7 forward as a credit to the 15 succeeding taxable years.

8 (b) The amount of unused credit must be used to offset the entire tax liability of each of the 18 taxable
9 years, beginning with the earliest and commencing to the next succeeding year until the credit is exhausted.

10 (8) The tax credit provided for in this section is available only to those taxpayers who invest in a
11 qualified Montana capital company within 4 years of July 1, 1987, or in a qualified Montana small business
12 investment capital company within 4 years of July 1, 1991.

13 (9) (a) An individual, small business corporation, partnership, or corporate taxpayer who obtains the tax
14 credit allowed under subsection (6) may not obtain credits in excess of the limits contained in subsection (6) by
15 making investments as more than one entity.

16 (b) A partner or shareholder in a small business corporation may not obtain more than \$150,000, or not
17 more than \$250,000 in the case of a qualified Montana small business investment capital company, in credits
18 as an individual and as the partnership or small business corporation. A corporate taxpayer that obtains the
19 maximum credits allowed under this subsection (9)(b) may not obtain additional credits through investments by
20 wholly owned subsidiaries or affiliates. An individual, small business corporation, partnership, or corporate
21 taxpayer who obtains the tax credit allowed under subsection (6) may not claim deduction under the provisions
22 of Title 15, chapter 30 or 31, for donation of stock in a qualified Montana small business investment capital
23 company."

24
25 **NEW SECTION. Section 28. Codification instruction.** (1) [Section 2] is intended to be codified as
26 an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 2].

27 (2) [Section 3] is intended to be codified as an integral part of Title 15, chapter 31, and the provisions
28 of Title 15, chapter 31, apply to [section 3].

29 - END -